

P5_TA(2002)0392

Single European sky: Air navigation services *I**

European Parliament legislative resolution on the proposal for a European Parliament and Council regulation on the provision of Air Navigation Services in the Single European Sky (COM(2001) 564 – C5-0482/2001 – 2001/0235(COD)),

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2001) 564¹),
 - having regard to Article 251(2) and Article 80(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0482/2001),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Regional Policy, Transport and Tourism and the opinion of the Committee on Legal Affairs and the Internal Market (A5-0266/2002),
1. Approves the Commission proposal as amended;
 2. Asks to be consulted again should the Commission intend to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

¹ OJ C 103 E, 30.4.2002, p. 26.

Position of the European Parliament adopted at first reading on 3 September 2002 with a view to the adoption of European Parliament and Council Regulation (EC) No .../2002 on the provision of air navigation services in the Single European Sky

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁴,

Whereas:

- (1) Member States have restructured, to varying degrees, their national air navigation service providers by increasing their level of autonomy and freedom to provide services. It is increasingly necessary to ensure that minimum public interest requirements are satisfied under this new environment.
- (2) The report of the High Level Group on the Single European Sky has confirmed the need for rules at Community level to distinguish between regulation and service provision and to introduce a system of authorisation *to preserve public interest requirements, most notably in terms of safety*, and a charging mechanism to stimulate cost-effectiveness.
- (3) Regulation (EC) No .../... of the European Parliament and of the Council⁵ lays down the framework for the creation of the Single European Sky.

¹ OJ C 103 E, 30.4.2002, p. 26.

² OJ C

³ OJ C

⁴ *Position of the European Parliament of 3 September 2002.*

⁵ OJ L

- (4) In order to create the Single European Sky, measures should be adopted to ensure the safe and efficient provision of air navigation services consistent with the organisation and use of airspace as provided for in Regulation (EC) No .../... of the European Parliament and of the Council of ... [on the organisation and use of the airspace in the Single European Sky]¹. The establishment of a harmonised organisation of the provision of such services is important to respond adequately to the demand of airspace users and to operate air traffic safely and efficiently.
- (5) The verification of compliance by air navigation service providers and other relevant operators with Community requirements is predominantly a task for the Member States. It means that the authorities performing such verifications should be sufficiently independent of air navigation service providers.
- (6) Member States *should entrust* to recognised *and technically experienced* organisations the verification and certification of compliance of air navigation service providers and other relevant operators with Community requirements.
- (7) Smooth operation of the air transport system also requires uniform, high safety standards of air navigation service providers.
- (8) *The implementation of safety requirements is without prejudice to the role and responsibilities of the European Aviation Safety Agency which, with regard to the creation of a Single European Sky, will have to be more clearly defined in the longer term.*
- (9) Arrangements should be proposed to overcome the lack of controllers, through the improvement *and harmonisation* of the procedures for *selection*, training, *authorisation, rating* and licensing, *the mutual recognition of licences, and the development of recruitment programmes*.
- (10) *The Commission should monitor the development of recruitment programmes by the Member States to determine whether it will be necessary to provide Community support for the development of these programmes.*
- (11) Whilst guaranteeing the continuity of service provision, a common system should be established for authorising air navigation services which constitutes a means for defining the rights and obligations of air navigation service providers. *Authorisations should be granted for a maximum period of ten years.*

¹ OJ L

- (12) The authorisation system should provide for the means to control access to the activity. It should take into account the need to facilitate the introduction of new services as well as new rules for service provision. Accordingly, authorisations should provide for the most adequate control compatible with the fulfilment of applicable requirements. It is also important to define non-discriminatory requirements in relation to the location and surveillance of a service provider, in particular of air traffic services, applying for authorisation.
- (13) Conditions attached to authorisations are necessary in order to attain public interest objectives for the benefit of airspace users and the air transport passengers. They should be objectively justified and should be non-discriminatory, proportionate and transparent **and compatible with applicable internationally agreed standards.**
- (14) The harmonisation of conditions attached to authorisations and of the procedures for the granting of authorisations should significantly facilitate the provision of air navigation services in the Community.
- (15) Existing air navigation service providers should be allowed a reasonable period of time within which to adjust to the requirements of the new system of authorisation.
- (16) The authorisations should be mutually recognised by all Member States in order to allow air navigation service providers to provide services in a Member State other than where they obtained their authorisations, within the limits of the requirements of safety.
- (17) In the interest of facilitating the safe handling of air traffic across the boundaries of the Member States for the benefit of the airspace users and their passengers, the system of authorisation should provide for a framework to enable Member States to designate service providers for providing air traffic services, regardless of where they have been authorised.
- (18) The provision of ancillary services, **communication services, radar-supported air navigation and surveillance services**, meteorological services and aeronautical information services should be organised under market conditions whilst taking into account the special features of such services **and simultaneously maintaining a high level of safety.**
- (19) Cooperation between service providers, airspace users and other operators should be enhanced on a contractual basis.

- (20) Air navigation service providers should establish and maintain close cooperation with military authorities responsible for activities that may affect air traffic, through appropriate arrangements.
- (21) The accounts of all air navigation service providers should provide for maximum transparency. *To* this end, the accounts should be separated for each service and control centre.
- (22) The introduction of harmonised principles and conditions for access to operational data should facilitate the provision of air navigation services and the operations of airspace users and airports under a new environment.
- (23) Charging conditions applying to airspace users should be fair and transparent.
- (24) User charges should provide remuneration for the facilities and services provided by air navigation service providers. Such services and facilities can, by their nature, only be provided by air navigation service providers themselves; in view of this monopoly situation, the level of user charges should be proportionate to the costs incurred in the provision of such facilities and services, taking into consideration the objective of economic efficiency, ***while maintaining a high level of safety.***
- (25) There should be no discrimination between airspace users for the provision of equivalent air navigation services.
- (26) Air navigation service providers offer a certain number of facilities and services directly related to the operation of aircraft, the costs of which they should be able to recover according to the “user pays” principle, which is to say that airspace users should pay for the costs they impose at, or as close as possible to, the point of use.
- (27) It is important to ensure the transparency of the costs to which such services or facilities give rise. Accordingly, any changes made to the system or level of charges should be explained to airspace users; such changes or investment proposed by air navigation service providers should be explained as part of an exchange of information between their management bodies and airspace users.

- (28) There should be scope for modulating charges that contribute to maximising system-wide capacity. Financial incentives are a useful way of accelerating the introduction of ground-based or airborne equipment that increases capacity, of rewarding high performance or of offsetting the inconvenience of choosing less desirable routings.
- (29) *In the context of those revenues raised to provide a reasonable return on assets, and in direct correlation with the savings made from efficiency improvements, it should be possible to allow the establishment of a reserve to avoid a sudden increase in charges to airspace users at times of reduced levels of traffic. To this end, the Commission should develop a detailed proposal for the establishment and implementation of such a reserve, to be agreed by the European Parliament and the Council.*
- (30) The Commission should examine the feasibility of *organising temporary* financial aid for measures to increase the capacity of Europe's air traffic control system as a whole.
- (31) The establishment and imposition of charges on airspace users should be constantly reviewed by the Commission, in collaboration with the European Organisation for the Safety of Air Navigation (“Eurocontrol”), and in cooperation with national supervisory authorities and airspace users.
- (32) The performance of the air navigation services system as a whole at European level needs to be constantly examined, *with due regard to the maintenance of a high level of safety*, to check the effectiveness of the measures adopted and to propose further measures.
- (33) Owing to the particular sensitivity of information concerning service providers, national supervisory authorities should not disclose information covered by the obligation of professional secrecy, without prejudice to the organisation of a system for monitoring and publishing the performance of service providers.
- (34) Since the objectives of the proposed action, namely to promote the safe and efficient provision of air navigation services, cannot be sufficiently achieved by the Member States, by reason of the transnational scale of this action, and can therefore be better achieved at Community level, whilst ensuring that the implementing procedures take account of the specific local conditions, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(35) Since most of the measures necessary for the implementation of this Regulation are measures of general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹, they should be adopted by use of the regulatory procedure provided for in Article 5 of that Decision. However, in accordance with Article 2(c) of that Decision, some measures should be adopted by use of the advisory procedure provided for in Article 3 of that Decision,

HAVE ADOPTED THIS REGULATION:

Chapter I

GENERAL

Article 1

Scope

This Regulation shall apply to the provision of air navigation services for civil aviation, including air traffic services, meteorological services, search and rescue services and ancillary services providing communication, navigation and surveillance infrastructure and aeronautical information services as specified in Annex I, in accordance with and within the scope of Regulation (EC) No .../... [laying down the framework for the creation of the Single European Sky].

Article 2

Definitions

For the purposes of this Regulation the definitions set out in Article 2 of Regulation (EC) No .../... [laying down the framework for the creation of the Single European Sky] shall apply.

The following definitions shall also apply:

- (a) “national supervisory authority” means the body or bodies, appointed by a Member State for the supervision of air navigation service providers;

¹ OJ L 184, 17.7.1999, p. 23.

- (b) "recognised organisation" means a private or public body, recognised in conformity with Article 4, carrying out assessment work for a national supervisory authority;
- (c) "authorisation" means a permission which is granted by a Member State and which certifies that an air navigation service provider is suitable for providing a specific service;
- (d) "bundle of services" means two or more air navigation services as listed in Annex I;
- (e) "air traffic services" means all flight information services, alerting services, air traffic advisory services and air traffic control services, including area control services, approach control services and aerodrome control services as defined in Annex I;
- (f) "designation" means an appointment by a Member State or Member States in accordance with this Regulation, giving a service provider the responsibility for providing air traffic services on an exclusive basis;
- (g) 'ancillary services' means communication *services and radar-supported air* navigation and surveillance services as further defined in Annex I;
- (h) "airspace block" means an airspace of defined dimensions, above land or waters, within which air navigation services are provided;
- (i) "functional airspace block" means an airspace block of optimally defined dimensions;
- (j) "operational data" means information and/or data used by air navigation service providers and airspace users during the execution of their operational activities;
- (k) "charges" means the price related to the operating and investment costs of air navigation services and related facilities.

Article 3

National supervisory authorities

1. A national supervisory authority shall be established by each Member State in order to assume the relevant responsibilities and obligations under the requirements of this Regulation. The national supervisory authorities **and** the air navigation service providers ***shall be separated from one another to the extent necessary to ensure that*** the national supervisory authorities ***operate as fully independent agencies in the discharge of their functions***.
2. The national supervisory authority shall ensure the appropriate oversight and enforcement of this Regulation, in particular with regard to the safe and efficient operations of air navigation service providers. To this end, the national supervisory authority shall perform proper inspections and surveys to verify compliance with the requirements of this Regulation.
3. Member States shall inform the Commission of the names and addresses of the national supervisory authorities and of the measures undertaken to ensure compliance with the provisions of paragraph 1. Member States may conclude an agreement on the supervisory role provided for in this Article in respect of regional service providers.
4. Member States shall notify any changes to the information supplied under paragraph 3, within one month of their introduction.
5. ***An airspace user which disputes a decision of the national supervisory authority may refer that decision to the Commission. If the Commission finds that the requirements of this Regulation have not been fulfilled it shall state its views on the correct interpretation of the Regulation without prejudice to Article 226 of the Treaty.***

Article 4

Recognised organisations

1. National supervisory authorities may decide with respect to air navigation service providers that operate under their responsibility to instruct recognised **and technically experienced** organisations to undertake fully or in part the inspections and surveys.

2. Member States may only recognise those organisations which fulfil the requirements laid down in paragraph 4 and which have submitted to the national supervisory authorities a request for recognition.

3. A recognition granted by a national supervisory authority shall be valid within the Community. National supervisory authorities may instruct any of the recognised organisations located in the Community to undertake the inspections and surveys under Article 3(2).

4. Recognised organisations shall comply with the minimum requirements set out in Annex II together with any further measures defined in accordance with the procedure referred to in Article 19(2), including the procedures for the granting of recognition, their monitoring and the working relationship and the liability between recognised organisations and the national supervisory authorities.

Article 5

Safety requirements

1. The Eurocontrol Safety Regulatory Requirements (ESARRs) and subsequent amendments to those requirements shall be identified and adopted in accordance with the procedure referred to in Article 19(2). Publication shall take the form of references to such ESARRs in the Official Journal of the European Communities.

2. Paragraph 1 shall be without prejudice to Article 1(2) of Regulation (EC) No .../... of the European Parliament and of the Council *of ...* [on establishing common rules in the field of civil aviation and creating a European Aviation Safety Agency] ¹.

¹ OJ L

Article 6

Licensing and training of controllers

On the basis of a Commission proposal to be agreed by the European Parliament and the Council, arrangements shall be made to overcome the lack of controllers and air traffic management personnel (ATM-personnel) through the improvement and harmonisation at Community level of the procedures for the selection, training, authorisation, rating and licensing of controllers and ATM-personnel, and to establish the mutual recognition of licences.

Chapter II

RULES FOR THE PROVISION OF SERVICES

Article 7

System of authorisation

1. The provision of air navigation services shall be subject to a system of authorisation certifying the suitability of service providers to provide such services ***and enabling cooperation between service providers.***
2. Member States shall issue and monitor authorisations for air navigation services. Authorisations may be granted for each separate air navigation service as listed in Annex I or for a bundle of such services.
3. Member States shall accept any authorisation granted in the Community according to the requirements of this Article. Without prejudice to international agreements and conventions to which the Community is a contracting party, providers of air traffic services shall be owned and continue to be owned directly, or through majority ownership, by Member States and/or nationals of Member States. They shall at all times be effectively controlled by such Member States or such nationals.

4. Air navigation service providers meeting the requirements of the system of authorisation shall be entitled to an authorisation *for a minimum period of five years and a maximum period of ten years* for the purpose of providing air navigation services. To that end, air navigation service providers shall apply to the national supervisory authority of the Member State where they have their principal place of operation and, if any, their registered office.

5. Authorisations shall specify the conditions in terms of rights and obligations of air navigation service providers, *with particular regard to safety*, that are objectively justified in order to meet the objectives of this Regulation. The conditions attached to authorisations and the procedures for their grant shall:

- (a) comply with the general lines of approach set out in Annex III;
- (b) be non-discriminatory, proportionate and transparent,
- (c) avoid any conflict of interest in the management or operation of air navigation services and ensure fair access by all airspace users,
- (d) reflect the public interest nature of air navigation services,
- (e) *be compatible with applicable internationally agreed standards,*
- (f) *meet the quality standards required by users.*

6. The authorisation system, including harmonised conditions in respect of the various air navigation services and the relevant conditions and procedures for the granting of authorisations, shall be established in accordance with the procedure referred to in Article 19(2).

7. Providers of air navigation services at the time of entry into force of this Regulation shall be authorised to continue to do so, provided that they comply with paragraphs 1 to 5 within a period of six months of the adoption of implementing rules for authorisations in accordance with paragraph 5.

8. No air navigation service provider established in the Community shall be permitted to operate within the Community unless it has been granted the appropriate authorisation.

Article 8

Designation of service providers

1. The provision of air traffic services shall be subject to a system of designation allowing the service provider to operate on an exclusive basis within specific airspace blocks and defining the obligations and requirements of the operation. Member States shall designate service providers to provide air traffic services in respect of the airspace over their territory. For this purpose, Member States may designate any service providers holding a valid authorisation within the Community.

2. Air traffic services that are, at the time of entry into force of this Regulation, operated by an air navigation service provider in respect of specific airspace blocks shall entitle that service provider to be designated for the same services in the same airspace blocks for a maximum period of three years without prejudice to the application of the provisions of Article 5 of Regulation (EC) No .../... [*on the organisation and use of airspace in the Single European Sky*] **and without prejudice to the duty of the air navigation service provider to continue to make operational and safety improvements.**

3. With regard to ancillary services, meteorological services and aeronautical information services, the granting of authorisations confers to service providers the right *to provide* such services within the Community, subject to their notification to the relevant national supervisory authorities of the Member States and to the Commission of the airspace blocks in respect of which such services will be provided.

4. Air navigation service providers shall provide their services in an open, non-discriminatory and transparent manner. Such services shall be delivered in accordance with the terms of the relevant authorisations and, where appropriate, of the relevant designations.

5. In respect of functional airspace blocks as laid down in accordance with Article 5 of Regulation (EC) No .../... [*on the organisation and use of airspace in the Single European Sky*] and when the configuration of such functional airspace blocks differ from that of airspace blocks assigned on the basis of paragraphs 1 and 2 of this Article, Member States shall designate service providers to deliver air traffic services in functional airspace blocks. When a functional airspace block extends over the territory of more than one Member State, the Member States concerned shall, within one month of the establishment of the functional airspace block, jointly designate the service providers.

Such service providers shall be immediately notified to the *Commission*.

Article 9

Relations with military authorities

1. *Member States* shall take the necessary steps *to ensure that air navigation service providers enter* into written agreements or equivalent legal arrangements with military authorities for the blocks of airspace where they are designated. Those arrangements shall set out the specific obligations of each party, including the scope and procedures for exchanging data and for the transfer of control following the adoption of the measures referred to in *Article 13* of Regulation (EC) No .../... [*laying down the framework for the creation of the Single European Sky*]. Those arrangements shall comply with the relevant provisions of this Regulation.

2. As long as Member States have separate entities to provide air traffic services to civil and military air traffic, they shall *keep* the Commission *informed* of the way in which the cooperation between such entities is organised *and the actions taken to enhance this cooperation or, where possible, to integrate such entities with one another*.

Article 10

Unbundling of accounts

1. Air navigation service providers, whatever their system of ownership or legal form, shall draw up, submit to audit and publish their annual accounts in accordance with International Accounting Standards adopted by the *Community*.

2. **Member** States or any competent authority which they designate, as well as the Commission, shall have a right of access to the accounts of service providers.

Article 11

Access to and protection of data

1. Operational data shall be exchanged in real-time between service providers and between such service providers and airspace users to facilitate the operational needs of both. ***It shall only be used for operational purposes.***

2. Access to operational data shall be granted to all authorised air navigation service providers, airspace users and other operators concerned on a non-discriminatory basis. ***The requesting agencies shall bear the costs incurred.***

3. Each service provider shall establish standard conditions of access to its operational data from other service providers and airspace users. National supervisory authorities shall approve such standard conditions ***and take the necessary measures to ensure that these data are used for operational purposes only. Access shall be regulated in such a way as to guarantee confidentiality and ensure that data specifying names are not disclosed.*** Detailed rules relating to such conditions shall be established, where appropriate, in accordance with the procedure referred to in Article 19(2).

Chapter III

CHARGING SCHEMES

Article 12

General

The charging scheme shall be fully consistent with the route charging system laid down in multilateral route charging agreements and in Annex IV to the revised Eurocontrol Convention. In keeping with the requirements of Articles 14 and 15 of this Regulation, the charging scheme shall help to bring about greater transparency with respect to the determination, imposition and enforcement of charges to airspace users. This charging scheme shall also be consistent with the provisions of Article 15 of the Convention on International Civil Aviation signed at Chicago on 7 December 1944.

Article 13

Charges and conditions

The charges and conditions for using air navigation services provided in non-competitive circumstances must be set by national supervisory authorities, after consulting airspace users, with due regard for best practice.

Article 14

General principles

1. The charging scheme shall proceed by the account of costs for air navigation services incurred by service providers on behalf of airspace users.

It shall allocate the costs of air navigation services among categories of users and shall develop a charging policy.

2. The following principles shall be applied when establishing the cost-base for charges:

- (a) The cost to be shared among airspace users shall be the full cost of providing air navigation services, including appropriate amounts for interest on capital investment and depreciation of assets, as well as the costs of maintenance, operation, management and administration.
- (b) The cost to be taken into account shall be *that* assessed in relation to the facilities and services, provided for and implemented under the 24th edition of 1998 of the ICAO Regional Air Navigation Plan, European Region Doc No 7754.
- (c) The cost of different air navigation services shall be identified separately as provided for in *Article 10*.
- (d) Cross-subsidy between different air navigation services shall be clearly identified.

- (e) Costs that are external to the operation of facilities and of services to airspace users, such as environmental costs, shall become a component of user charges in whichever way is most appropriate.
 - (f) Air navigation services may produce sufficient revenues to exceed all direct and indirect operating costs and to provide for a reasonable return on assets to contribute towards necessary capital improvements.
3. As far as charges are concerned, the following principles in particular shall apply:
- (a) Charges shall be set for the availability of air navigation services under non-discriminatory conditions. No distinction shall be made between charges imposed on different airspace users for the use of the same service in relation to the nationality or category of the airspace user.
 - (b) Charges shall reflect the cost of air navigation services and facilities used by airspace users who generate them.
 - (c) Transparency of the cost-base for charges shall be guaranteed. Standards shall be set for the provision of information by the service providers in order to permit reviews of the provider's forecasts, actual costs and income. Information shall be regularly exchanged between the national supervisory authorities, service providers, airspace users, the Commission and Eurocontrol.
 - (d) Charges shall *allow for* the safe, efficient and effective provision of air navigation services at the lowest possible cost *compatible with the maintenance of a high level of safety* and shall stimulate integrated service provision. They may provide incentives and deterrents consisting of financial advantages and disadvantages which apply to air navigation service providers and/or airspace users. They may also provide revenues to benefit projects designed to assist specific categories of users and/or air navigation service providers in order to improve collective air navigation infrastructures, the provision of air navigation services and the use of airspace. *Cross-subsidy between different air navigation services shall be permitted only in exceptional cases and shall be clearly identified.*

4. The implementing rules in the fields covered by paragraphs 1, 2 and 3 shall be established in accordance with the procedure referred to in Article 19(2).

Article 15

Review of charges

1. The Commission shall provide for the ongoing review of compliance with the principles and rules referred to in *Articles 12 and 14*, acting in collaboration with, in particular, national supervisory authorities. The Commission may also establish the necessary mechanisms for making use of Eurocontrol expertise.

2. At the request of one or more Member States which consider that the principles and rules have not been properly applied, or on its own initiative, the Commission shall carry out an investigation on any allegation of non-compliance or non-application of the principles by service providers. Within two months of receipt of a request and after consulting the “Single Sky Committee” in accordance with the procedure referred to in Article 19(3), the Commission shall take a decision on the application of *Articles 12 and 14* and shall decide whether the service provider may continue to apply the principle or rule concerned.

3. The Commission shall communicate its decision to the Member States and to the service provider concerned. Any Member State may refer the Commission’s decision to the Council within one month. The Council, acting by a qualified majority, may take a different decision within a period of one month.

Chapter IV

FINAL PROVISIONS

Article 16

Performance regime

Detailed rules for the submission of information required pursuant to *Article 11* of Regulation (EC) No .../... [*laying down the framework for the creation of the Single European Sky*] shall be established in accordance with the procedure referred to in Article 19(2) of this Regulation, with a view to allowing the comparison and improvement of air navigation service provision within the Single Sky. The submission of this information shall:

- (a) promote the wide performance of a network of air navigation service providers within the Community;
- (b) offer a prospect of enabling air navigation service providers to deliver the required services;
- (c) improve the consultation process between airspace users and air navigation service providers;
- (d) allow the identification and the promotion of best practice, *in particular by means of a set of safety indicators*.

Article 17

Adjustment to technical progress

1. In order to make adaptations to technical developments, adjustments may be made, in accordance with the procedure referred to in Article 19(2), to:

- (a) the Annexes;
- (b) the reference to the ICAO Regional Air Navigation Plan contained in Article 14(2).

2. The Commission shall publish implementing rules adopted on the basis of this Regulation in the Official Journal of the European Communities.

Article 18

Confidentiality

National supervisory authorities shall not disclose information covered by the obligation of professional secrecy, in particular information about service providers, their business relations or their cost components.

The first paragraph shall be without prejudice to the right of national supervisory authorities to mandate disclosure where it is essential for the purposes of fulfilling their duties, in which case such disclosure shall be proportionate and shall have regard to the legitimate interests of service providers in the protection of their business secrets.

Moreover, the first paragraph shall not preclude publication of information on the conditions and performance of service provision which does not include information of a confidential nature as required by Article 16.

Article 19

Committee procedures

1. The Commission shall be assisted by the “Single Sky Committee” instituted by Article 7 of Regulation (EC) No .../... [*laying down the framework for the creation of the Single European Sky*].

2. Where reference is made to this paragraph, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply, in compliance with Article 7 and Article 8 thereof.

The period provided for in Article 5(6) of Decision 1999/468/EC shall be one month.

3. Where reference is made to this paragraph, the advisory procedure laid down in Article 3 of Decision 1999/468/EC shall apply, in compliance with Article 7 and Article 8 thereof.

4. *In addition to the Committee, an 'Industry Consultation Body', to which associations of airspace users, flight-safety organisations and the manufacturing industry shall belong, shall be established to advise the Commission on technical aspects of the implementation of the Single European Sky.*

Article 20

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ,

For the European Parliament
The President

For the Council
The President

ANNEX I
AIR NAVIGATION *SERVICES*

- (1) **Area** control services, means air traffic control for controlled flights in control areas. Air traffic control is a service provided for the purpose of preventing collisions between aircraft, and on the manoeuvring area between aircraft and obstructions, and expediting and maintaining an orderly flow of air traffic.
- (2) Approach control services, means *an* air traffic control service for arriving or departing controlled flights.
- (3) Aerodrome control services, means *an* air traffic control service for aerodrome **traffic**.
- (4) **Search** and rescue services, means a service to provide assistance to aircraft in distress and to survivors of aircraft accidents.
- (5) Meteorological services, means a service to supply operators, flight crew members, air traffic services units, search and rescue services units, airports and *others* concerned with the conduct or development of air navigation with the meteorological information necessary for the performance of their respective functions.
- (6) Aeronautical information services, means a service provided for the purpose of ensuring the flow of information necessary for the safety, regularity, and efficiency of international air **navigation**.
- (7) **Communication** services, means a communication service provided for any aeronautical purpose.
- (8) Navigation services, means a navigation service provided for any aeronautical purpose.
- (9) Surveillance services, means a surveillance service provided for any aeronautical purpose.

ANNEX II

MINIMUM REQUIREMENTS FOR RECOGNISED ORGANISATIONS

The recognised organisation must:

- be able to document extensive experience in assessing public and private entities in the air transport sectors, in particular air navigation service providers, and in other similar sectors in one or more of the fields covered by this Regulation;
- have comprehensive rules and regulations for the periodic survey of the above mentioned entities, published and continually upgraded and improved through research and development programmes;
- not be *economically linked to or* controlled by air navigation service providers, or *be economically linked to or controlled* by others engaged commercially in the provision of air navigation services or in air transport services;
- be established with a significant *and qualified* technical, managerial, support and research staff commensurate *with* the tasks to be carried out;
- be managed and administered in such a way as to ensure the confidentiality of information required by the administration;
- be prepared to provide relevant information to the national supervisory authority and to the Commission;
- have defined and documented its policy and objectives for, and commitment to, quality and *have* ensured that this policy is understood, implemented and maintained at all levels in the organisation;
- have developed, implemented and *must maintain* an effective internal quality system based on appropriate parts of internationally recognised quality standards and in compliance with EN 45004 (inspection bodies) and with EN 29001, as interpreted by the IACS Quality System Certification Scheme Requirements;
- be subject to certification of its quality system by an independent body of auditors recognised by the administration of the Member State in which it is located.

ANNEX III

CONDITIONS WHICH MAY BE ATTACHED TO AUTHORISATIONS

1. General information relating to

- the recipient of the authorisation;
- a general description of the purpose of the authorisation;
- confirmation of the authority of the issuing body to issue the authority;
- comprehensive references to the governing legislation under which the authorisation is issued and under which it will operate;
- a clear specification of the period for which the authorisation is to run;
- the notice period required for the authorised service provider to surrender the authorisation or for the national supervisory authority to revoke it;
- a definition of terms referred to in the authorisation.

2. Conditions relating to:

- the organisational structure and ownership of the service provider, including the prevention of conflict of interest;
- the financial strength of the service provider and insurance in respect of liability risks;
- the suitability of the holder of the authorisations, particularly in terms of past experience and credibility, safety and quality management systems and processes, human resource policies ***and adequate staffing plans for all categories of ATM-personnel included in the ESARR 5 safety directives and carrying out safety critical tasks***;
- the provision of information reasonably required for the verification of compliance with applicable conditions, including the regular publication by the service providers of business plans, financial and operational data and the reporting of safety occurrences;

- the management of assets relevant to the provision of the authorised service, including capital and human resources;
- the non-discriminatory access to services from airspace users and the required level of performance of such service, including safety and interoperability levels;
- ring-fencing or restriction of operation of business other than those related to the provision of air navigation services;
- any other legal conditions which are not specific to air navigation services;
- measures taken by Member States in accordance with public interest requirements recognised by the Treaty specifically in relation to public morality, public security, including the investigation of criminal activities, and public policy.